92-92

G. R. S. IX-5]

1896-97

Previous references.

LR 181-92

192 .

(L.R.)

File No. 152-96.

Serial Nos. 1-11

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-11.

In ~~Part~~ B for June 1898.

SUBJECT.

Confirmation of Karanam's right to the Shanbog huk of Madenahalli Pirka, Chennagiri Tal

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To,

(1) The Deputy Comr Shimoga.

(2) The Deputy Comr of other District.

No. 6527-34 8.24.1.98.

P.P. 92-92.

Confirming the right of Karanam to the Shanbog huk of Madenahalli Pirka, Chennagiri Taluk.

WD 2233—GPB—20,000—14-6-29

~~2~~ 1. 9)

Before the Government of Mysore.

Appeal No. 110 of 1896–97

Appellant.	Vs.	Respondent.
✓ Ramanna		Venkatappa & 3 others

Notice:-
28-6-97.

Petn of 1883 to be put up
M Ex/619

The petn of 1883 & a short abstract of the connected papers are put up.
It is not clear what the separate enqt, to which the LCy Comm^r refers, was. Petr (Channabasappa) might be the inquiry of 1883 but the enqt contemplated by petn, he kept on petitioning till 11/1885 the LCy Comm^r passed an order directing that the appeal and (Represn^n) be granted & that a new [illegible]

Though the Land Rev code & Rules were not in force in 1885, the distinction between Repln-Inqs & Miscellaneous proceedings was one laid down in the Commissioner's Circular of 1864 & which has been repeated in Sec^n 221(a) of the Land Rev code.

It seems to have always been the
practice to call upon the claimant
who was not in poss^{n} of the Office
& whose name was not on the Registers,
to establish his claim in a regular
suit. But this practice does not
seem to have been followed
by Col Macaulay who, he declared in his address to the
the man in poss^{n} & practically
the Registrar, to be a guardian

It appears from the remarks
of M^{r} J Krishnaswami that the
provisions in the last clause of ~~para~~
Rule XXX of the Potyi Rules were held to
apply to cases ~~contemplated~~
where the Executor of more than
one charge failed to produce a
Competent person for the ~~of the~~
charge or charges, at the Potyi Settlement.
But the opening clause of Rule
XXX seems to preclude any
such supposition ("In all cases
of incompetency of the Executor &c)

The Dy Comm^{r} has thrown out the
land on the ground of limitation
But the provisions of the Limitation
Act were made applicable to Rev
Suits by Rule XLIII (2) of the Land Rev
Rules in 1890, while the cause of action
in this case arose in 1885. But under
the Comm^{r}'s circular of 1864, the period
is only 2 years & the appellt cannot get
much benefit out of this.

Sd B & 2nd Counsellor
13/7/97

Appeal No 110 of 1896-97.

Appellant:—
Ramaiya

Respondent:—
Karividdappa and others.

Subject:—
Dispute regarding the Shanbhogi of Mudenhalli Taluk in the Chanagiri Taluk.

At the hearing of this case the 1st Respondent Karividdappa stated that he presented a petition in 1883, three years after the Sotgi settlement, praying for the Restoration of the office in the name of his infant son. It was ordered that this petition should be put up.

This petition consists of a few lines written below the Assist

Commissioner's Enclosure No 2.2

on the back of Narasiddappa's petition to the same effect dated 21st December 1852 (this paper, page in the Forest Market as Exhibit VII)

An abstract of these petitions papers is given below:

In the petition dated 21st December 1852, which was presented by Lieutenant Commissioner W. G. Hutchinson who had also been the Potgi Settlement Officer, Narasiddappa stated that when he objected to Ramanna's appointment at the time of Potgi Settlement, he was told by the officer that Ramanna was appointed for a period of 3 years as he (Nara) had then no Hakkan to produce, and that if after that period he produced one, his Inam would be restored to him; that subsequently when he represented that the villages forming the Inam in question should be divided between himself and Venkatadappa and added on to their respective

Seals

dealer, he was forcibly taken by the same officer, that Ramiah could not be disturbed for 3 years, and that the petitioner should get the office afterwards if he produced a ~~letter~~ petition stating that he (Ramiah) was subsequently born to him; and that the period of 3 years would expire in February 1883 (a month and a half since). He prayed that after the expiry of that period the office might be registered in the name of his son, a guardian being appointed to do duty during the minority of the boy.

On this petition Mr. B. G. Krishniengar passed an order on 26th December 82 to the effect that the settlement made at the time of Vargi could not be interfered with for 3 years, that the petitioner might after that period submit a petition

representation, and that order should be passed in accordance with rules.

On 18th March, 1883, Karicidaffa presented a petition* written below the above endorsement, representing that at the period of 3 years after the Potgi settlement expired, he nominated his own son Kalakaraja to the Pat, according to the order (Ca 38) of that time, that he (Karicidaffa) was taken to the Fair, and as he had no one to produce it was given to a stranger at the Potgi Settlement, and that his son should be registered and a Sunnadu should be transmitted to do duty.

Note:— The paper below this petition is torn and the one or two lines written at the end cannot be made out.

* This is the one that has been ordered to be put up.

At the next sheet contains the Amildar's letter of 12.5.83 to the effect that the petition received from Karicidaffa

was

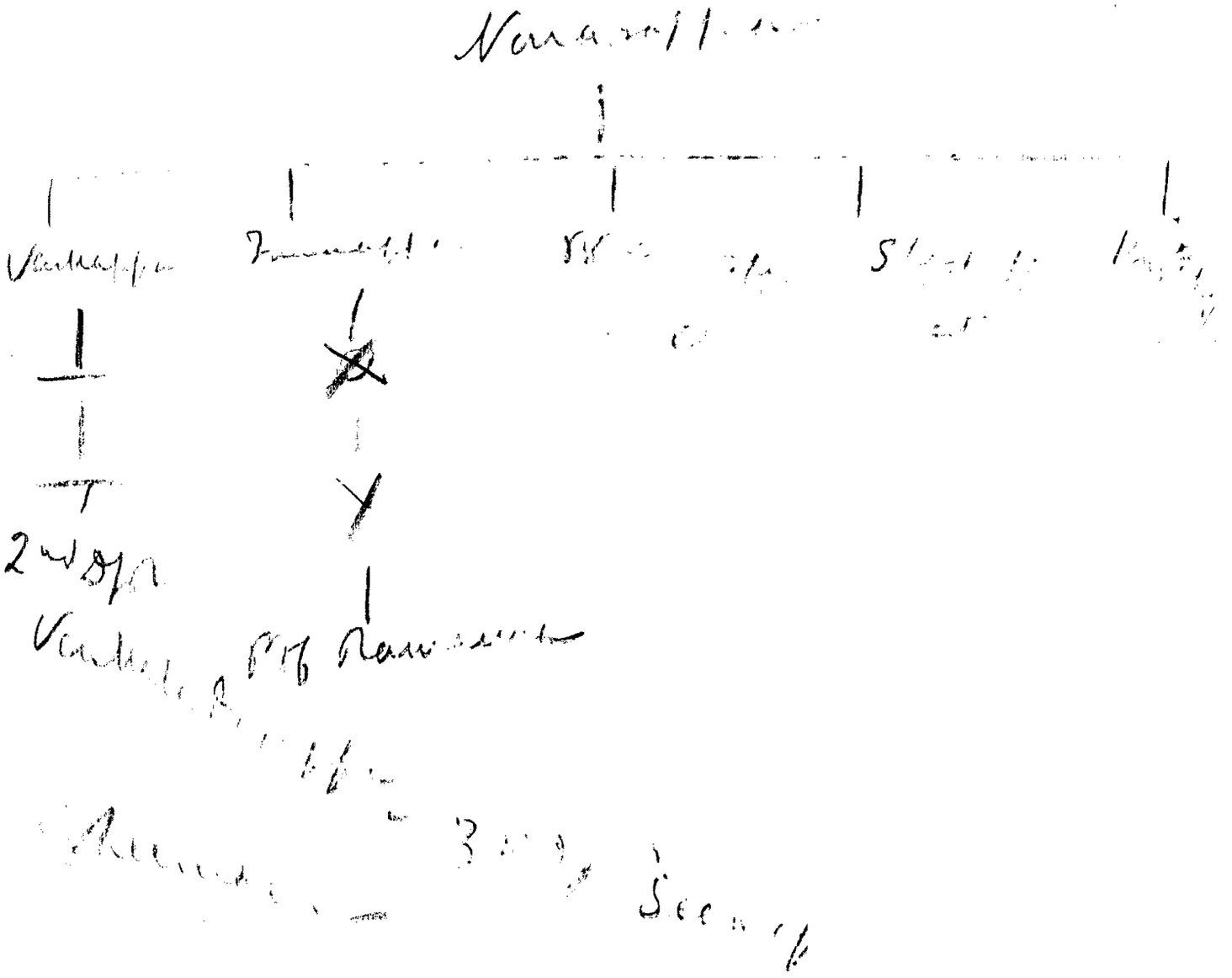
ruled for perusal. This was
submitted to the Dy. Commr
on 4.6.83 by J.K. (Asst. Regis-
trar under Rule ?). Vide the note
written on the above sheet.

Below the enclosed note dt. 6.6.83
under rubber stamp
date the deed of ~~the~~ Mr. J. Varadharajan, to the effect that
an endorsement was required
in reply to the enclosed
petition, and that the papers
should be filed.

S.V.
10/7/97

M 13/7/97

RD 6.30 pm.
13/7/97



Appeal No 110 of 1896-97

Appellant (Plaintiff)
Raman

Respondents (Defendants)
1. Karicaddappa
2. Venkatacappa
3 Seccappa
4 Bheemamma

In re the Shanbhogi of Madenahalli
Channegiri Taluk

Order proposed by the 2d Councillor:—

The facts of this case are very clearly stated in the Asst Commissioner's judgment and may be briefly recapitulated as follows:—

Up to the time of the Fasli Potigi settlement, the first and second defendants, viz, Karicaddappa and Venkatacappa were the registered joint Shanbhogs of all the villages which at the Shanbhogi settlement were formed into seven charges by the Survey Superintendent. Venkatacappa was a minor and was throughout represented by a guardian. Karicaddappa acted for himself. The settlement made by Official

named Nanjappa

Commissioner Mr Krishnaraj
and finally approved by the
Deputy Commr was that three
representatives from Karisiddappa's
family including his own
son were appointed to three of
the charges and these three
exhausted the whole of his family.
Three persons were appointed from
Venkatasiddappa's family
including himself and three
remained the seventh charge
which is now in dispute. For
this charge the present Plaintiff
was appointed. He belonged
to Venkatasiddappa's family
and the guardian of Venkata-
siddappa is said to have
consented to his appointment.
Karisiddappa had no heir
or other representative to come
forward.

2. Both Karisiddappa and
Venkatasiddappa's guardian
persisted in their objections
to these arrangements, but
the Dy. Commr approved and
upheld the appointment of the
Plaintiff and in one instance
refused to pass an order

3e Conseiller requête

Though I do not question much the legality of the views of the learned Councillor, I cannot help thinking that this is a case which ought not to be decided on mere legal and technical points. The case calls for equity combined with law.

2. The order proposed by the noble Councillor, in effect, deprives Kariékapapa on Bob Bacich born soon after the Potigé settlement, of his hereditary right to the fishery in dispute, and confers it permanently on a distant collateral of the Ava Natives.

3. The Officer who settled the Potigé had himself given Kariékapapa some hope of his getting the land back three years after the settlement, on the Calico representing that a son was born to him.

4. Under such circumstances I think that Col. Macarthur's order of 30th Sept 85 was quite equitable.

5. I would therefore confirm the Officer's decision.

13

to be enjoyed by him during
his lifetime and make it
revert to Subbaiah, should
he survive the former
11th September 97
(Sd) Abdul Rahiman.

2d Councillor's minute

Equity must follow the
law and not be opposed to it
There is no justice which
cannot be justified by law
Submit file when I meet the
3d Councillor on the next occasion

(Sd) P. N. K
14-9-97.

Refer to the Dewan
(Sd) P.N.K
17-9-97

~~H~~ Finance Secd's Secretary
M 20/9.97

Secd to Dewan
20-9-97

144

(11)

Sl. S. No. 9/92-93

7 circles ... [illegible]

Post the case for hearing & give notice to all parties
[illegible]
24/6/94

Issue notice to
(1) Ramanna — Appellant
(2) Karisiddappa
(3) Venkatadasappa minor, by guardian Naranappa } Respondents.

Posted to 17 July
Cl/18/6 notice issued 2/7/94.

Adjd to 2 August
Cl. [illegible] to [illegible]
Cl 8/8 notice issued 11/8/94.

Preferred by Ramanna Shanbogue of Savanahalli Taluk Channagiri Taluk against the order of the Deputy Commissioner Shimoga District No. 47 dated [illegible] 92 declining [illegible] of the Shanbogueship of the same village.

The Magani of Channagiri consisted of 30 villages. The office of Shanbogue of these villages was equally held in two families namely Nadig and Shanbogue. Nadig Chattappa was one incumbent to the office. He and his brothers having been convicted of embezzlement and sentenced to rigorous imprisonment, his family was totally deprived of their right to the office and one Ramanna of [illegible] the divided member of his family, was appointed in his stead. [illegible] the minor [illegible] predecessor [illegible] was another incumbent. See [illegible] Report No. 882 of [illegible] 879.

During the settlement of villages had by the appellant [illegible] in February 1880 these 30 villages were formed into seven circles and each incumbent was given three circles [illegible] the [illegible] paid the following

under the 25th idem. 15

"With regard to the remaining circle, namely No. 7 both the Inulig and Shanbogue would have been entitled to it in order to equalize the division; but as no 'his' fit rises being a respectable man whose claims he can put forward for the post. The only other competent member of the Shanbogue's family is one Ramiah and the Shanbogue's has rather recommended before me to the appointment of the same to that circle. I therefore recommend him to the post."

In 1881 Kariappa guardian of Kalalarappa petitioned to the Dy. Commissioner to oust Ramanna, the appellant, from the office of Shanbogue of Madanahalli. It was sent to the Amildar for enquiry and report and in the course of enquiry Kariappa having again consented to leave Ramanna as Shanbogue of the above Kritha the matter was referred to the Dy. Commissioner who observed in his Endorsement No. 349 dated 1st July 81 that as the petitioner consented to leave Ramanna as Shanbogue, there was no occasion to pass any other order in the matter - vide Amildar's report No. 1311 of 30-6-84.

On the 31 March 82 Kariappa again submitted a petition to the Dy. Commissioner representing that as the minor Kalalarappa was under his protection and Ramanna was not paying any Inigatti for his maintenance he should be deprived of his office. This was forwarded to the Amildar for report on the 1 April 82 - In the Amildar's Enquiry Ramanna stated that he was not at all

a petition for the same.

And the 30th September 84 Mr Charles Sedgwick a petition of the Inhabitants of Nutley that when the Road in Crowborough Common leading to Nutley Town that Common may be taken into the Road and Mr Sedgwick the Surveyor for the District to set out the same and that the Expence thereof be paid by the Parish and that the Road may be made 30 feet wide and that the Hedges may be set back and that the Ditches may be made on the Common side and that the Road may be made good and passable for Carts and Waggons and that the Surveyor do report to the next Meeting of this Board.

And the 4th October 84 Mr Sedgwick the Surveyor for the District attended and produced a Plan of the Road and Mr Sedgwick was ordered to set out the Road 30 feet wide and that the Hedges be set back and that the Ditches be made on the Common side and that the Road be made good and passable for Carts and Waggons and that the Surveyor do report to the next Meeting of this Board.

And the 1st November 84 the Surveyor reported that he had set out the Road and that the Hedges had been set back and that the Ditches had been made on the Common side and that the Road was made good and passable for Carts and Waggons and that the Expence thereof was £15 and that he had paid the same and the Board ordered the Surveyor to pay the same out of the Parish Rate.

And the 6th December 84 Mr Sedgwick attended and produced a Plan of the Road and the Petition of Thomas Hyder and others and Mr Sedgwick was ordered to set out the Road 30 feet wide and that the Hedges be set back and that the Ditches be made on the Common side and that the Road be made good and passable for Carts and Waggons and that the Surveyor do report to the next Meeting of this Board.

and the said Petitioner's Counsel
to be heard thereupon if they see cause to
the contrary.

And the said Counsel for the said
Petitioner did accordingly appear in
the 28th April 85 and the said Petition-
-er's Counsel then produced an Affida-
-vit of Service thereof upon the Respond-
-ent's Counsel and the said Respondent
produced and read his Affidavit sworn
the 20th May 85.

And the 21 May 85 Counsel on both sides
-mitted a petition of the said Petitioner
that the said Petition might be dismissed
-der and pursuant to the said Petition
passed this same day the said Petition
It was ordered to be dismissed accord-
-ingly with the said costs of this same

The said Petition of 8th June 85 being
with the Petition and Affidavit
with the said Petition of 25 May 85
with the Exhibits.

The said Petition of the said Petitioner
dated 4th of 25 June 85 setting that the
had married the said Petitioner that
that the said Petitioner had ever been
the said Petitioner and that the said
Petitioner did not the said Petitioner
for five years - and prayed the
said Petitioner might be
made to pay the said Petitioner
of five pounds, and that the said
Petitioner might be ordered to

of Macaulay that had resigned with the appointment.

On the 10th August 1865 the Minister addressed the Lieutenant of Macaulay and the petition of the Inhabitants of Cawnpore, the officiating Solicitor to their note Minute No. 3353 of 5th date. Macaulay stated that Macaulay had resigned appointed by proclamation the Resolution of the Municipal Commissioners, and that Mr. Stallard, was not installed to hold office in the Municipality - that Cawnpore should be entitled from appointed and some one in their interest should be appointed.

Cawnpore stated that the Municipality appointed Macaulay and Macaulay never entitled to office and that Macaulay's claim for Mr. Stallard (Confirmation) Secretary had been rejected - vide No. 3353 of 1865.

Macaulay Municipality the then appointed the following resolution to Mr. Stallard:

"Mr. Macaulay from the Secretary and the Public Prosecutor that the present officiating Municipality was duly appointed by the Municipality of the Municipality, because the Municipality had no other appointment. The proceedings are undoubtedly in Macaulay's favour Municipality Chairman Macaulay, Mr. Macaulay to the appointment of Mr. Stallard Municipality. Of this Cawnpore to the Appointed Mr. Stallard Municipality Cawnpore

Mr. Blake replied to the petitioners
solicitor and counsel appeared
satisfied to abide by the decision
of the Court."

Mr. Colter, Q.C. Recorder called
the petition of Mr. Jones for
writ that the sheriff was not
returning sufficient persons duly
qualified for the Nisi Prius and
Assize lists and praying that he
might be ordered to return
such persons from the time qualified
and praying that the persons
duly qualified for the Nisi Prius
Court.

On the 5th December 86 Writs were issued
and the Petitioner gave Security
as required by the Statute
and Writs issued on the 6th
December 86.

On the 8th January 87 the Petitioner
served the Sheriff with the
writ No. 30 the Petition
and Writ and Notice that
Petition would be heard
on the 15th January 87.

On the 15th January 87 Mr. Jones
attended in the No. 35 to speak to
the application of Petitioner, Sheriff
and Solicitor of respondents
to the effect that the Sheriff
had not returned the persons
duly qualified for the Nisi Prius
Court and the Petitioner
had not been served
with the Writ.

On the 17th January 87 the
Petitioner served the Sheriff
with the Petition and Writ
and Notice that the

order on the 5th December 5th [illegible]

"Petition Romaine present-day
Incorporation and Municipal Reform.

Romaine has also declared its rule
a formula - Romans now to the declared
Reform, the Municipal or the new York.
Council interfere with a fixed already
floored by any petitioner, Capitol Italian.
I may note here that the Union of Prayer
Municipal appears to the guide correct and
Responsible Right Record."

On the 8th August 87 Municipal Reform represented
to the Council that the Corporation Municipal-
-ity of Rome to appoint Council for
the Municipal Rome visited of Romans
he did not agree to the new agreed that
Romans Chief the Imperial Union
from him for a share of the new water
and requested that Italy the Romans of the
Village of the Rome Acute, in the Separate
in his name. The Council Corporation for
the Record and Enquiry into the case from
him an Undertaking to the effect that the
Walls now already the Rome of the Tiber.

On the 6th February 88 Municipal Reform
Union Submitted a petition to the Corporation
Repealing Bye Laws - and the Corporation
after formal Consent the Record Signed the
Following Page No. 865 of Journal &c.

Romans, Formula of the Municipality,
Bye Related to Central Municipal Rome to
Council-Corporation Municipality and Municipality
Romans the petitioner - Via Corporation
to Imperial Report or Romans Italy Repealing
to the Respective Italians - Italian Rome
Rome Italian, Rome and the Municipality,

the said Petitioner Grace the defendant
Wrongfully possessed in their part of the pre-
-mises the Messuage & premises & Grace
summoned and Examined - Ramsden
Shewed the warrant that if the defendant
the Account of the Petitioner - he was
the rightful owner -

On the 8th February 92 the Justices
Sat with the Mr. Ingle the Steward
of Kirkwhelpington, Ramsden and Hutton
- Lancaster and reported that they had
made an agreement between the
Parties - Ramsden stated that he was
appointed in the room of the Rev. Mr. Ec-
-cleston deceased - the Petitioner stated
that the Defendant Ingle was
produced and refused to enter into the
proper agreement - and both parties were
ordered to come to Morpeth on the
Settling day in the next Month.

On the 26th February 92 the Petitioners
decided the Complaint and the Order, before
the Ramsden appointed, Grace
the Same and Mr. Ingle with
Mr. Ingle, the following order.

Whereas the Petitioners Grace
of 1883 formerly was duly passed in
the Book of Ramsden - and the
Notice of the Meeting duly served
another Tenants of the Estate Shewed
Cause why the same should not be confirmed - Which
the Defendant appeared in the Tenants that
the Petitioner was duly served upon
Shewed Cause why the same should not be

his property subject to confirmation by the Collector and Board.

On the 28th May 92 Cavaran Subramiller a petition to the Dy. Commissioner stating that his case regarding Seven Cadans that the above mentioned lands to the Collector alleging that Govt. were party.

Against the above mentioned Appellant Cavaran has appealed on the following grounds.

1. That the above mentioned Dy. Commissioner has passed an illegal order without jurisdiction whereby the Collector has been deprived of his rights.

2. That the Collector having given the Civil Court jurisdiction in the matter the Civil Court should have decided the case on the merits of the evidence adduced by the parties and not have dismissed the suit on a preliminary point.

3. That subsequently the Collector has decided the case on the merits of the evidence adduced by the parties and has decided in favour of the Govt.

4. That Cavaran has acquired a good and valid title to the property by long possession.

5. That in the event of the Collector's order being set aside Cavaran is entitled to the lands as against the Govt.

Respondent in this Appeal Govt. Collector of Trichinopoly

Cavaran Subramiller

Appellant

Dy. Commissioner

Trichinopoly

Petition of Appeal

Dated 28th May 1892

Filed 28th May 1892

Petitioner

Cavaran Subramiller

Respondent

Collector of Trichinopoly

Petition of Appeal

Dated 28th May 1892

Filed 28th May 1892

of villages to 10 circles were then amalgamated during the settlement of Kolar - vide Notification No. 656 of 13-10-79.

6. During the settlement of Kolar the villages were formed into [illegible] - Kariseddappa and Veerappa were from these circles each. [illegible] and Chandrappa families were equal sharers for the remaining [illegible] circle of Madanahalli, but as Kariseddappa had no relatives & had no better claims as declared by the previous [illegible] the officer who settled the Kolar appointed him a member of the Chandrappa family - He has been holding the office [illegible] having a service of 12 years, 11 months & 14 days.

7. That when Kariseddappa applied for half the [illegible] of Madanahalli - his claim was rejected on the ground of his not being a Watandar vide Dy. Comr's No. 690 of 30-7-81. and that when Veerappa claimed permission for the support of the minor in accordance with the decision No. [illegible] the Dy. Comr. ruled in his decision No. 558 of 16-6-82 that he was not appointed as guardian on behalf of the minor and as such he had nothing to say [illegible] Veerappa [illegible].

8. That in spite of the above rules, the present order was unjustly passed directing [illegible] on the ground of his not having [illegible] to Kariseddappa and the appointment of a [illegible] on the condition of his having [illegible] to the Watandar.

9. That the fact that Kariseddappa and Veerappa have no better claims on Madanahalli [illegible] is supported by decisions referred to in para 7 & that they have not obtained any subsequent orders [illegible] declaring the same better claims -

[illegible] Municipal Council [illegible]
of Trincomalee had applied for permission
for the Municipality to establish, maintain
and keep in repair a [illegible] bridge across
the Kaddaikadu Ela, and that the Council
had agreed to the application subject to
the approval of the Governor being obtained
to the Municipality borrowing the amount
required for the purpose, and that the
Governor had given his approval to the
proposal, and that the Municipality had
now complied with the conditions of the
Council of 23 July 92.

Rtn relating thereto, entd.

The Municipality in submitting the proceedings stated:-

No. 901 of 21-12-92

"Petitioner also requested that the Council would consider the expediency of borrowing the amount required for the bridge, and that the Council would also consider the expediency of allowing the Municipality to levy a toll on the bridge."

"Petitioner also requested that the Council would consider the expediency of borrowing the amount required for the bridge, and that the Council would also consider the expediency of allowing the Municipality to levy a toll on the bridge."

Mr. Thurston

Mr. Thurston

Mr. Thurston

This is an appeal relating to the Shanabogi of Madenhalli Sirka, Channapatna Taluq.

The Shanabogi Concerns of 36 villages while at the Patige Settlement were formed into seven Hobles. Two distinct families have joint right to the Shanabogi of the villages - Madeg and Shanbog, Kari-Siddappa is representative of the former and Venkata Subbaiya of the latter. At the Patige Settlement, each was given three-fourth Regarding the Sirka Madenhalli, now in dispute,

Ramer" the present
officer was appointed
the order of the last
Commr, who effected
the Police settlement
which is in English is
as follows:- "With
regard to the remaining
Circle viz to both the
Rodiya and the Shambuga
would have been included
to it in order to equalize
the division; but the
dispute is cut shortly
the Rodiya representative
not having any relatives
to put forward for the
post. The only other
Competent member of the
Shambuga's family is one
Ramak and the Shambuga
Guardian has consented

before the ~~2d~~ the appointment of the Inner & Outer Circle. I therefore recommend that ~~him~~ the post

Venkatadasappa's Guardian Ramappa was dissatisfied with Ramiah as he did not pay him anything; Kaddappa, having got a son, asked that Ramiah should be removed and the office of Mudeliar registered in his son's name and urged that Ramiah has absconded on the Police settlement merely because he had no relatives to recommend him. Both these persons preferred Ramiah

applications of the
Collector for the
Removal of Ramasamy,
and had attempted
to have the Firka
ordered in his name.
Various times efforts
were taken for.

On the 3 September
1885, Major Macintire,
the Collector decided,
that Ramasamy in all
the Jemmatah,
proper Mugdas were
Kanandaffa and
Venkadaffa, that
these two should jointly
appoint a Jemmatah
and that if they failed
to do so, Ramasamy would
be retained as Jemmatah.

Ramaiah sought for
a review of this order
on the 19 December
1887 by Madhava Rau
rejected Ramaiah's
petition on the ground
that he would not
interfere with his
predecessor's order,
but at the same time
expressing his opinion
that the order of Kuppa
Rau Sahib was incorrect.

M. Karisiddappa
and Venkatasubbaya
not having come to an
agreement as to the
appointment of a
guardian, the Deputy
Commissioner, on 19 March
1889 ordered that Ramanna

who was doing duties

Should pay the
Inspector of the Hagdons.
otherwise he would
be removed from
office.

Ramanna having
refused to pay anything
to the Hagdons, the matter
again came up before
the Dy Commr who passed
an order on 20 May 1892
directing the dismissal
of Ramanna. And the
appointment of a Sumastal
promptly by letter. If this
within a month. If this
is not done, the man
nominated by Kamaraddi
would be appointed.

Against this
order, Ramanna
has appealed.
The Dy Commr's order

32 ordered to be
[illegible] held in
abeyance.

We [illegible]
[illegible] appeal
[illegible] that appellant
has been doing duties
for a period of over
12 years since 25 Feb
1880 as permanent
[illegible] and (2)
that it has been decided
in [illegible] Commrs [illegible]
No 358 dated 16-8-82 that
appellant was not a
[illegible]
suggested

We first
[illegible] the question
as to the second ground
supported by records
of [illegible] Narasapatta Municipality
[illegible] presented several

petitions for the removal
of Ramanna. One of these
was presented on 31st March
1882 and the prayer was
that Ramanna should
be removed and the
ground on which it
was based was that
Ramanna was not
paying anything to
Narasappa, although
the minor [illegible] Venkatadasappa was
under his protection
The Dy Commr then said
(Arbitration No 358 dated
14 June 82) that Ramanna
was not the minor's
Gumastah, and that
he was not bound
to pay him anything.
The orders of the
Madras Judicial and Madras
Revenue Boards on date

The only question for determination between Ramanna who appealed Chambers in his own right and the Samasthanam Pleaders Vice Chairman depends upon the construction to be placed on the order appointing him.

The reason assigned in the order for the appointment of appellant was that Karasiddappa had no relatives and that he was related to Venkatadasappa. It would seem to indicate that the appointment was not permanently

Yuichi B Ramadan. He
was not afforded
a formal letter.
Probably the intention
of the Dy Comm in affording
Ramadan was that
he should do the
duties and keep the
Undersecty to tell the
Hagdons had
a proper person to afford

Ramadan has
been maintaining Rumpus
that he was afforded
in his own right permanently

The facts of this case are very clearly stated in the ~~Sadr~~ Asst Comrs Sift- and may be briefly recapitulated as follows. -

Up to the time of the Bokka Boya settlement the first and second Sfts ~~had~~ by Kariseddabba and Venkatadasappa were the registered joint Shantopes of all the villages which ~~were included~~ at the Shantopes settlement were formed ~~brought~~ into seven charges by the Survey Sift- and the Shantopes settlement Venkatadasappa was a minor & was represented by a guardian Kariseddabba acted for him -self- The settlement made by Asst Comr Mr Kushagan and finally approved by the Dy Comr was that three representatives from Kari- including his own son -seddabba's family were

1/1

appointed to three of the charges
and these three exhausted the whole of
his family - More more were
appointed from Venkatadasappa's
family including himself
and there remained the seventh
charge which is now in dis
pute. For this charge the present
OC was appointed - He belonged to
Venkatadasappa's family & was the guardian
of both Kanisiddappa and of Venkata
Venkatadasappa's guardian) dasappa
persuaded in their objections is said
to their arrangements, but to have
the Deputy Comm^r of consented
~~Mysore & Kadur~~ to this appoint
- ment
Upon this Kanisiddappa
and ~~Venkata~~ dasappa
withheld the assets of the had an
OC and in one instance had an order
refused to pass an order from
for any portion of the OC's Government
allowance as Shanbogue vide which
to the given to Kanisiddappa - orders
But the parties continued to present 390 of 30th
petitions till at last they July 1881 &
succeeded in getting Col Macaulay 358 of 10th
who had by that time become May 1882.

The Commissioners decided as under on the 3rd Sept 1885 in the following terms:—

"It is clear from the record and the Sanad granted to Raja Sujeter that the present Mr Shanbogue was simply appointed to the Shanbogueship of the 7th circle (Hiriyur) the hereditary rights of the Shanbogueship had no where been to appoint. The brothers are undoubtedly Kari-Siddappa and Venkata-dasappa (by grandmother Ramappa). They must agree to the appointment of Shanbogue - If they cannot agree on whom Government to be appointed the present incumbent Ramanna is to be kept on as their joint servants as they are both apparently equally entitled to share in Shanbogue rights of the 7th circle."

This led to further petitions from both of the men concerned and with a change of Deputy Commrs the case also assumed

another aspect - The Shanlyne was deemed liable to pay a portion of his allowance to the person of whom he was a foomanta and the Off was accordingly decided to pay it - The Off ~~contended~~ persisted in his contention that he was not a foomanta of ~~the~~ any one till at last he was ordered in 1892 to be removed for his default to pay a portion of his allowance to Kanchanbasantra - The Off then for the first time felt the practical deprivation of his office and ~~proceeded~~ made a representation ~~to~~ threat of the ~~effect~~ to Govt. This was numbered as 9 of 1893-94 and the decision proceeded upon the technical ground that ~~the~~ as "the Off had ~~not~~ no right by a regular suit and he cannot now be allowed to question the order of 1885 by a miscellaneous application". The Off then brought this suit - The Asst Comr decided the case in his favour; but the Dist Comr, though he agreed with him in all his fin held that

was against the O.P. and dismissed the suit. He threw out a suggestion that it was open to the Govt. to exercise the power under Sec. 217 of the New Code and recorded his opinion that the order was clearly illegal. The O.P. has filed this appeal which originally led to the abolition of the O.P. were based in order to give effect to the direction contained in Sec. XXIX of the Orissa Rules. This rule directs that "when more villages than form a sufficient charge are already in the hands of one officer, he will be required to give up the surplus villages for which one or more new officers will be appointed by Govt." The new officer or officers will be appointed from the family in which the hereditary has been hitherto vested if a competent person can be found."

The villages in the hands

had been formed into seven classes and

of the 1st and 2nd Dfts^ rejected seven officials - All the members of the 1st Dfts family were appointed and there were no more forthcoming - Similarly Venkatadari appa's family contributed three and yet there remained the seventh. charge. The Dft who was, as incurrently found by both the ~~learned~~ Courts, Dy Comr & his assistant, a member of that family was also available and he was appointed - His appointment received the ~~learned~~ consent of the 2nd Dfts guardian though such consent was not a requisite condition under the rule quoted above. The appointment was in no wise irregular - It was quite in accordance with the requirements of the law - It had been approved by the Dy Comr and was thus final, unconditioned and was thus absolute - It is obvious that with the appointment the right with he came absolutely vested in the Dft in a legal manner and he could not be deprived of it except in due course of law -

Two intermediate orders which were here in fact may be referred to as exemplifying the incorrect notions which have prevailed on the subject. Kanhu Sahu had no heir or other representative at the time when this settlement was made; yet it was thought that he could reopen the matter by an additional (Order 212 of 26th Jan 82) suit when there was born to him a son. The grant of this title was probably a misconception of the provision contained in Section XXX which refers to the passing over of an incompetent heir. Similarly another opinion also faulty was expressed that the Deshmukhs who belonged to the 2nd Class family having officiated for five years the hereditary title might pass on to the 1st Class family in a similar period (Order 430 of 25th June 85) of five years. Opinions to the same effect were expressed in the orders of Deputy Authorities but were not given practical effect to. Another of such orders was the order of 1885 passed

by Col Macaulay that the Off
should be treated as a Commander.
There can be no doubt that this
view of the case was erroneous.
The effect of the Off was absolute
and there was no justification
for importing the new term of
Commander. This had been
expressly negatived by an
order of the Govt Mr Venkata
Varadiengar and as limited
out by the Asst Comr in this suit
the removal of that order by Col
Macaulay who succeeded Mr Venkata Varadiengar in the office of Mr
was unwarranted
and illegal being opposed to
the terms of a Circular order then
in force - (Page 233 New Manual)
however this was
an order in a series which
had not been given effect to
and the Off was not disturbed
in his possession - Whereby
misapprehending the
duties which devolved upon him
he could not reasonably be
found fault with for not
doing more than protest or demur
when these orders were
passed in effective or in operative
he was threatened with deprivation
of the possession of his office
he was directed which a suit
and he did so without loss of time -

The relief he prays for is the annulment & cancellation of his title based upon his appointment as the Shaubopee tribe in the ground of his being a member of the Shaubopee family - It has been already shown that he is not clearly and lawfully entitled with and the question is whether the order of 6th March 1885 should be allowed to become a bar for his obtaining future justice - The order may be passed not as an expression of the opinions of those who passed it but upon misconceptions of fact or of law - Prima facie the order was illegal being from a predecessor in office, and was moreover such as could not be executed. The Source of the office title & certificate = and it is not denied that he is a member of the Shaubopee family - is his appointment and the disturbance of its present is the ground of his action.

a suit for the declaration
of his right and for the
appropriation thereof is clearly
within time, the period allowed
being twelve years; and for
the purposes of such a suit
it does not seem to be necessary
to seek for a cancelment of the
order of 1885. "When the order
does not fall within the authority
of an official who makes it, it
is legally a nullity and therefore
need not be set aside" (Shivjee
Vs Collector I.L.R. of 11 Bom 429) - Sinha's translation
It has been already shown that page 537
of Macmillan ruled without proper
authority in modifying an
order of his predecessor - (para 26 of the Order already quoted)
The test is whether the order could
be set up as a bar to the maintenance
of this suit - It is deemed that it
cannot - In this view the suit
does not appear to be barred.
The decision of Bom in appeal 9
of 1893-94 was that "if the Govt
had a right he must establish it
by a regular suit". The suit is
to establish the right & not to cancel
which the Govt declined "to allow
him to question by a miscellaneous
application". In this view I

the case the suit does not appear to be barred and the relief claimed must be decreed.

~~Granting~~ The suggestion of the Govt. that Govt should exercise its power under s. 217 and cancel the impugned orders which have been ~~agreed~~ passed after the 8th if they are to have the effect of depriving them of his just right, is very reasonable. There seems to be no occasion for the exercise of this power, but if there is any doubt as to whether in the application of the law of limitation Govt do not terminate & cancel the orders which militate against the absolute apportionment of the 8th - appellant will be confirmed in his prospective of the share to which he is the owner of which he is the absolute hereditary officeholder.

Verify one more the facts & orders & submit to the A.G. Sahebs.

7.9.97

9/9/97

I have perused the file & given the necessary directions

9/9/97

Transfer of the real property to be applied for
for Privy Council, Learned Counsel, Learned
help Chambers, that this cause which ought
not to be decided on mere legal and
technical points. In the Calcutta Court
Court have all
in order proceed for civil Counsel
in effect, desires that Calcutta on Valuation
before commencement the Hope settlement,
this hereditary right to the Fields in
dispute, such right is permanent
or right collateral for other rights,
The effect of the letter of Mr. Cumming
from Mr. Hope stating some letter to this effect
to Long Board, that Jones after the settlement,
or the latter represented that
Jones before obtain.
Under such circumstance Mr. Hope
that it. Incentive order to be just
Calcutta
Ord. Mayor jurisdiction Certain
the office of Chairman to be only
for during his lifetime and make
it regard to Old Mercantile that he
survive to forever.
11th May 1857 Abdul Rahman

Equity and
follow the law &
not be decided in
mere on principle
case of
subject to
the contrary

Seal of 2nd Comm'r

13/9/97

Delivered to the
Registrar, Calcutta
17.9.97

Rec'd Cal.
13.9.97.
17-9-97

Rec'd
13.9.97
Secretary to Govt

It

There is a
covenant giving to the
two Courts below that
Plaintiff was appointed
in 1881 as the Manager
of Nicaragua Public
Improvements Co, in his
own right and not
as the Executor of [illegible].
I see no reason to
differ from the finding.
The appointment had
the effect until it [illegible]
under Rule 13 of the
Code Civil and was
confined and [illegible]
Circumstances. There was
no revocation of the
deed in favor of [illegible]
and it is, therefore,
not competent [illegible]
to question the settlement
made [illegible]

the Rule in Jan Cook
in 1881. The Miscellaneous
orders passed by the
Commissioners subsequently
Confirming the settlement
different were also
void and illegal —
Breach the present
suit was brought
not merely to set aside
these illegal orders
but to restrain Defts
upon oath and
for a declaration that
Defts have no right
to the same under
the Instrument. The suit
is, therefore, not framed
& cannot be a Statute
application. The Contract —
Defts' cause of action accrued
in 1872 when he was

[illegible]

18: 12/97

[illegible]

19-12-97

20.12.97.

[illegible]

22-12-97

[illegible]

21/12/97

23/12/97

draft Ltr

25/12/97

Recd.
3/1/98.

Drafted.
DC
10/1/98.

Received in Revenue Subdivl Court
11/3/97

Subject
Appeal against the order of the Asst Commr refusing the decree regarding the Patel right to the Shanbhogi
Stamp forbidden to be used

1) In time
2) Stamp sufficient
3) Appeal against Dy Comrs order
dismissing petn for
4) Comrs Ord
The Dy Comrs seems to be right
that petr is entitled to some relief
but he (Dy Comr) is prevented from
granting [illegible] the remedy
but the Dy Comr may issue a
mandamus by reversing the proceedings
under Sec 217 of the Land Revenue
Act 1885

Submitted to 2nd Counsellor.
17/3/97

PS The ref. [illegible] there are 2 pleaders
I am otherwise) how that Govt in 1894
did not see fit to exercise their powers
under Sec 217 23/3/97

Rq 8.30 am
25/3/97
Intimate the respective
parties or their pleaders
concerned
25/3/97

1898 Jan 10
Returned with
proceedings
7/3/97

(8)
Dr 52-96-1

1897

No. 227 (81)

Name of Petitioner Ramanna

Village Sanj Simulasing

Taluk Shimoga

District Shimoga

11-3-97

Date of Receipt 11-3-97

Date of Disposal

No. of Enclosure 3

ABSTRACT.

Appeal against the Dy Comrs order passed in appeal No 1896-97 reversing the decree passed in Regular Suit No 1895-96 declaring the plaintiff's right to the Shanbhogi Service and directing that the Shanbhogi Service be discharged by deputy as usual and that the costs of the suit be borne by the

Plaintiff was nominated a Shanbhogi but a Samasta of his own accord but as a matter of fact his appointment was dismissed on the ground that the suit was barred by limitation under art 14 Sch II of the Limitation Act.

It was contended that the amending Act of 1895 passed that the suit was instituted in time

by the Dy Comr (Comr Hunter) of establishing his right to the Chamberlaincy.

The suit being to establish his right to the office comes within the 12 years' rule (sect 1 of Act 14 & 15 Vict cap 57) as amended by sec 14 of the Limitation Act admits Petr's suit.

Respectfully the Govt may be pleased to cancel the order of the Dy Comr and confirm that of the original Court.

Enclosures –

(1) Judgment (in English) of the Dy Comr in case no 4 of 1895 by which appealed against.

(2) Judgment (in Kanarese) of the 1st Class Asst Comr granting the decree in favour of the Petr.

(3) Decree framed by the 1st Class Asst Comr in favour of the Petr.

BL.
16/8/97.

Pretended exemption

In the Court of the Commissioner Northern Division
The Madras Presidency

Special Appeal No 1 of 1896-97

In the Court of the Lower Appellate Court

Ramanna
Son of Immalappa
Shanbogue of Madanahally Firka Chennapura Taluk — Special appellant — Respondent

Hanchiddappa
Venkata Dasappa
Ramappa
Bheemanna
Residents of
Chennapura — Respondents

Special appellant above named humbly begs leave respectfully to prefer this second appeal against the decision of the Deputy Commissioner of Kadaga passed in appeal No. 4 of 1896-97 reversing the decree passed by the First Assistant Commissioner in Revenue O.S. No 1 of 1895-96 for the following reasons.

The Lower Appellate Court while agreeing with the Court of First Instance ~~that~~ the in all its findings on facts and admitting with the Court of First Instance that the Special appellant was nominated by a competent authority as Patel of Shanbogue and not as Gramasta of accounts has proceeded to set aside the decree of the Court of First Instance on the ground that the suit was barred by limitation under art. 14 Sch II of the Limitation act

2 The article referred to does not apply as the suit instituted by the Plaintiff-Special appellant was not to get the Summary order of 1886 pass

of 1880 passed by the Deputy Commissioner as was wrongly assumed by the lower appellate Court

3 The year of 1885 did not affect the Plaintiff's enjoyment of his rights as Shanbogue of the Village to which he was appointed and consequently there was no need to have it set aside.

4 The Deputy Commissioner in 1892 passed a summary order directing the forcible removal of the Plaintiff from his office and when an attempt was made to give effect to this order the Plaintiff represented the matter to the Government and prayed for a revision of that order.

5 The Government declined to interfere with the order of the Deputy Commissioner, passed in 1892 summarily and directed the Plaintiff's special appellant to establish his right to the Shanboki.

6 It was this year of 1892 that created a disturbance of Plaintiff's peaceful enjoyment of his rights, his Enclosure Compound with the Government to get it erased hailing.

7 The Plaintiff's suit being to establish his claim to the Shanboki as a Vrisi his claim to the Shanboki as a Baravanidar and not as Gumasta and it is governed by the 12 years rule and not by art: 14 though as a necessary consequence of such establishment of the Plaintiff's rights all acts passed to the contrary would become inoperative

8 The Plaintiff's suit is further barred by the provisions of sec: 14 of the

the Limitation Act in the event of this Honorable Court holding that Act is applied.

9. Particular Inquired by the Special Respondents to the Power after Court was out of time and should not have been entertained and decided.

For these reasons the Special Appellant humbly prays that the decision of the Lower Appellate Court be set aside and that of the Court of the first Instance restored with Costs throughout.

Bangalore
11. 3. 1897

(Sd) [illegible]
Special Appellant

57 Pet 792-92 (9) (1475) 6-4-97

MYSORE DEWAN'S OFFICE.

PETITION DEPARTMENT.

LR 152-96-2 (91)

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

Registered No. 2777 dated 11

Received at the Dewan's Office from

Ramanna & Chennakesh

Hiremagalur Taluk, appealing

against the Judgment of

Commissioner Kadur in

in appeal No 3/187-97 for

him.

is forwarded, together with its nil enclosure, to the Deputy Commissioner of the Shimoga District for submission of the entire proceedings connected with the case.

2. The petition with its enclosure should be returned.

By order,

C2

Dfn

Asst Chief Secretary.

BANGALORE,

2.4 189 6.

Sing

29/3/97

M.G.C.P.B.—25-4-95—1

LR152-96-3 58

No. 966 of 1897

Deputy Commissioner's Office

Chinsura 23rd April 1897

To

The Secretary to the
Government of Bengal
Jail and Revenue Depts.

Sir,

As required in your official memo No. 742-92 of the 23rd March 1897 I beg to submit herewith the entire record in Reisuna appeal case No. 1 of 1896-97 on the file of this Court.

2. The appeal petition and its enclosures received with the above are herewith returned.

I have the honor to be
Sir
Your most obedient servant
[illegible]
Deputy Commissioner

+ Together with the proceedings in G.O. No. 1 dt. 15-3-97 on the file of the Jail Dept. Secretariat record.

7/168

59

668

1896-97

From The Deputy Commr
Shimoga Dt

To The Secretary to the
Government of Mysore
Genl and Revenue Depts

Dated 26th April 1897
Despatched
Received
General No. 1127
No. 966

Enclosure No. Petition with 3 encls: & memo dt. 24th/

As required in
Offl memo No. Pet.
2 92-92
of the 29th March
1897 I submit the
record in Revenue
appeal case No. 4
of 1896-97 on the
file of this Court.

Deputy Commr
Shimoga
29-4-97

Vide Pet. 1 to 28th June at Bangalore

Notice issued
Obtn
5/6.

Mr. Smith for perusal
3/5/97

29-4-97 Pet up
AK
3/5

(6)

Dc2 152-96-4

Rep of the Asst Superintendent

Read:-

Petition of appeal No 110 of 1896-97 presented by Ramanna of Mariambalii Channagiri Taluk against the decree of the Second Munsiff reversing the decree of the 1st Asst Commr of the District in Revenue O.S. No 101 of 1895-96 on the file of this Court declaring Ramanna to be Hakdar Channikoy of Mariambalii Dista and to be entitled to hold the Office

2. Records of the case received with letter No 1121 dated 26-4-97 from the Dy Commr Shimoga district

Order Nisi 6-27-34

P.F. 92-92.

7/18.1.38

24

The facts of this case are very clearly stated in the Asst Commissioner's judgment and may be briefly recapitulated as follows:-

Up to the time of the British Settlement, the Heads and Deputies viz Kariadappa and Venkatadasappa were the registered joint Shanbhogs of all the villages which at the Mariambalii settlement were formed into seven charges by the Survey Superintendent. Venkata dasappa was a minor and was throughout represented by his guardian Kariadappa acted for himself. The Settlement

X Plff

Ramanna

Defts

1 Kariadappa

2 Venkatadasappa

3 Subbaya

4 Ramanna

1) Draft for approval (The Draft & a verbatim fair copy of the Councillor's order)

2 The order may, I think be framed

Rao b Venkatz 4/11/98

12-1-98

My 11/1/98

Sd Rice

My 14/1/98

X a Cooly No 2

Land

made by the Government Agent Krishnamachar and finally approved by the Diyawadana and that three representatives from Karivedduppara family including his own son were appointed to three of the charges and Mister Thru exhonerated the whole of his family. Three more were appointed from Venkatadaripa's family including himself and these recommended the seventh charge which is now in dispute. For this charge the present Office was appointed. He belonged to Venkatadaripa family and the guardian of Venkata Devappa is said to have consented to his appointment. Kari Vedduppa had no heir or other representative to bring forward.

2. Both Karivedduppa and Venkatadaripa Guardian permitted in their objections to these arrangements, but the Diyawadana approved and upheld the appointment of the Plaintiff and in one instance refused to pursue an order

for any portion of the plaintiffs allowance as Shanbhog to be given to Karisiddappa.*
But the parties continued to present petitions till at length the Mag. succeeded in getting Col. Macintire who had by that time become Deputy Commissioner to pass an order on the 3d September 1885 in the following terms:-

"It is clear from the record and the Public Office Register that the present appt Ramlingy was simply appointed to the Shanbhogship of the 7th circle because the two hakdars of the Shanbhogship had no other person to appoint. The proper owners are undoubtedly Karisiddappa and Venkatasubbappa (by Swandam Ramappa). They must agree to the appointment of an acting Shanbhog. If they cannot agree as to the man to be appointed, the present incumbent Ramappa should be kept on as their joint gumasta, as they are both apparently equally entitled to share in

* Vide Deputy Commr's orders 390 of 30 July 1881 & 358 of 10 May 1882

Shandigo rights of the 7th circle".

This led to further petitions from Plaintiff and the others concerned, and into a change of Deputy Commissioners the case also assumed another aspect. The Shanéhoy was deemed liable to pay a portion of his allowance to the person of whom he was a grandchild and the Plaintiff was accordingly directed to pay it. The Plaintiff persisted in his contention that he was not the grandchild of any one, till at last he was ordered, in 1892, to be removed from his office for default to pay a portion of his allowance to his grandfather. The Plaintiff, then for the first time, seems to have felt the practical threat of the deprivation of his office and made a representation to Govt. His appeal was numbered as 9 of 1893-94 and the decision proceeded on the technical ground that "the Plaintiff was not

64

"might establish his right by a regular suit and he cannot now be allowed to question the order of 1883-5 by a miscellaneous application". The Plaintiff then brought this suit. The Assistant Commr decided the case in his favor, but the Deputy Commr, though agreeing with him in all his findings of fact, held that the limitation law was against the Plaintiff and accordingly dismissed the suit. He then sent on a suggestion that it was open to Govt to revise the order under Section 219 of the Revenue Code and recorded his opinion that the order was clearly illegal. The Plaintiff has filed this appeal to Govt

Waiting for Govt Pleader's opinion

Copy sent 5th Sept 1885

3. The proceedings which originally led to the appointment of the Plaintiff were held in order to give effect to the direction contained in Section XV of the Patēl Rules. This section directs that "when more villages than form a sufficient charge are already in the hands of one Patēl, the

he will be required to give up the surplus villages for which one or more new officiators will be appointed by Govt. The new officiator or officiators will be appointed from the family in which the last was hereditarily vested, if a competent person can be found."

4. The villages in the hands of the 1st and 2nd defendants had been formed into seven charges and required seven officiators. All the members of the 1st defts family were appointed and there were no more forthcoming. Similarly Kuka Subrayappa's family contributed three and yet there remained the seventh charge. The Plaintiff who was, as is mentioned by Col. the Deputy Commissioner and his assistant, a member of that family was also available and he was appointed. This appointment received the consent of the 2nd defendant's guardian though such consent was not a requisite condition under the rule quoted above.

The appointment was in accordance with the requirements of the Law. It had been approved by the Deputy Commr and was thus final unconditional and absolute. It is obvious that with the appointment the right to it became absolutely vested in the Plaintiff in a legal manner, and he could not be deprived of it except in due course of law.

5. Two intermediate orders which have no fruit may here be referred to as exemplifying the different notions which seem to have prevailed on the subject. Although Harriet Appa had no heir or other representative at the time when this appointment was made, yet it was thought that he could reopen the matter, if an adult heir was born to him within three years (Order 212 of 26th December 1882). The source of this mistake was probably a misconception of the provision contained in Sec. XXX which refers to the passing one of

of an incompetent heir.
Similarly another opinion,
also faulty, was expressed
that the Plaintiff who belonged
to the 2nd Defendants family having
officiated for five years, the
time might then pass on to the
1st Defendants family for a similar
period of five years. (Deputy
Commissioners order 430 of 28th June 83).
Both these opinions were expressed
in the orders of District authorities,
but were not given
practical effect to. Neither of
such orders was the order of
1885 passed by Col: Macintire
that the Plaintiff should be
treated as a Gramadāri. There
can be no doubt that this view
of the case was erroneous.
The appointment of the Plaintiff
was absolute and there was
no justification for imposing such
the new tenure of Gramadāri.
This had been expressly negatived
by an order of the 27th Govt
Agent Kandy under section 12 of 1872,
and, as pointed out by the
Asst Commissioner, in this
suit, the reversal of that order
by Col: Macintire was

who succeeded Mr Venkata Varaiengar as Deputy Commr was unwarranted and illegal being opposed to the terms of Circular order then in force (page 233 Rev. Manual) Moreover this was an order in a series which had not been given effect to and the Plaintiff was not disturbed in his possession. He could not reasonably be found fault with for doing no more than protest or demur when these ineffective or inoperative orders were being passed. When however he was threatened ~~to be deprived~~ with deprivation of the possession of his Rank, he was directed to bring a suit and he did so without loss of time. The relief he prays for is the affirmation of his title based upon his appointment at the Chanchoji Settlement, on the ground of his being a member of the Chanchoji's family. It has been already shown that he is clearly and lawfully entitled to it and his succession

is whether the order of Col. Randolph passed in 1880 should be allowed to become a bar to his obtaining pure justice. The order may be passed over as an expression of one of those opinions which were based upon misconception of fact or of law. Prima facie the order was illegal, being opposed to an express order passed by a predecessor in office, and was one which such as could not be executed. The essence of the Plaintiff's title to officiate — and it is not denied that he is a member of the Randolph family — is his appointment and the disturbance of it is the ground of his present action. A suit for the declaration of his right and for the affirmation thereof is clearly within time, the period allowed being twelve years; and for the purposes of such a suit it does not seem to be necessary to look for a commencement of the order of 1885. "When the order does not fall within the authority

if an official mis made it, it is legally a nullity and therefore need not be set aside" (Shivaji & Collector I.L.R. 11 Bombay 427)*. It has been already shewn that Col: Macintire acted without proper authority in modifying an order of his predecessor (para 26 of the Civ: order already quoted). The test is whether the order could be set up as a bar to the maintenance of this suit. It is deemed that it cannot. In this view, the suit does not appear to be barred. The decision of Govt in appeal No 2 of 1895-96 was that "if the Plaintiff had a right, he must establish it by a regular suit". The suit is to establish the right and not to cancel the order of 1885 which the Govt declined to action him to question by a miscellaneous application". In this view of the case, the suit does not appear to be barred and the relief claimed must be decreed.

* Madras Limitation page 537

6. The suggestion of the Deputy Commissioner that Govt should exercise its powers under Sec 21 and cancel the irregular orders which have been passed against the Plaintiff if they are to have the effect of depriving him of his just right, is very reasonable. There seems however to be no occasion for the exercise of this power, but if there is any doubt whatever as the application of the law of limitation, Government do not hesitate to cancel the orders which militate against the absolute enjoyment of the Plaintiff

7. The result is that the appellant will be confirmed in his possession of the Shanbhogi right in question & relief to be in the absolute terms of the decree & order of the Court below.

Draft
C.A.D

Secretary

Q 12-1-98

Recommend Summary Dismissal of Appeal

20-1-98

Mr. Commissioner Shimoga
Dist with Contract Papers

10/1/98.

74 అనుబంధాలలో చుపరంగాబోగస్ కు అప్లికేషన్
గ్రీన్ కార్డులు (2)
ఆధార్ కార్డు, పాన్ కార్డు, సీల్, సైన్
భీమవరం, ఏలూరు గ్రీన్ కార్డు చేర్చాలి అయితే.
వీరా
12.1.98

By order
For Secretary.

10/1/98.

75

READ :—

Petition of Appeal No. 2777—110 of 1896-97, presented by Ramanna of Madenhalli, Channagiri taluk, against the decree of the Deputy Commissioner of Shimoga, reversing the decree of the 1st Assistant Commissioner of the district in Revenue Original Suit No. 1 * of 1895-96, on the file of his Court declaring Ramanna to be hakdar shanbhog of Madenhalli firka and to be entitled to hold the office.

* Plaintiff—	vs.	Defendants—
Ramanna.		1 Karisiddappa.
		2 Venkatadasappa.
		3 Sinappa.
		4 Bhimanna.

2. Records of the case received with letter No. 1121—966, dated 26th April 1897, from the Deputy Commissioner, Shimoga district.

No. 6527-34—PET. F. 92-92, DATED BANGALORE, 18TH JANUARY 1898.

ORDER THEREON.—The facts of this case are very clearly stated in the Assistant Commissioner's judgment and may be briefly recapitulated as follows :—

Up to the time of the pakka potigi settlement, the 1st and 2nd defendants, *viz.* Karisiddappa and Venkatadasappa, were the registered joint shanbhogs of all the villages which, at the said settlement, were formed into seven charges by the Survey Superintendent. Venkatadasappa was a minor and was throughout represented by a guardian. Karisiddappa acted for himself. The settlement made by Assistant Commissioner Mr. Krishnaiengar and finally approved by the Deputy Commissioner was that three representatives from Karisiddappa's family including his own son were appointed to three of the charges and these three exhausted the whole of his family. Three more were appointed from Venkatadasappa's family including himself, and there remained the seventh charge which is now in dispute. For this charge the present plaintiff was appointed. He belonged to Venkatadasappa's family and the guardian of Venkatadasappa is said to have consented to his appointment. Karisiddappa had no heir or other representative to bring forward.

2. Both Karisiddappa and Venkatadasappa's guardian persisted in their objections to these arrangements, but the Deputy Commissioner approved and upheld the appointment of the plaintiff, and in one instance refused to pass an order for any portion of the plaintiff's allowance as shanbhog to be given to Karisiddappa*. But the parties continued to present petitions till at length they succeeded in getting Colonel Macintire who had, by that time, become Deputy Commissioner, to pass an order on the 3rd September 1885 in the following terms :—

* *Vide* Deputy Commissioner's Orders Nos. 390 of 30th July 1881 and 358 of 10th May 1882.

"It is clear from the record and the pakka potigi register that the present officiating shanbhog was simply appointed to the shanbhogship of the 7th circle, because the two hakdars of the shanbhogship had no other person to appoint. The proper owners are undoubtedly Karisiddappa and Venkatadasappa (by guardian Narnappa). They must agree to the appointment of an acting shanbhog. If they cannot agree as to the man to be appointed, the present incumbent Ramanna should be kept on as their joint gumasta, as they are both apparently equally entitled to share in shanbhog's rights of the 7th circle."

This led to further petitions from plaintiff and the others concerned, and with a change of Deputy Commissioners the case also assumed another aspect. The shanbhog was deemed liable to pay a portion of his allowance to the person of whom he was a gumasta, and the plaintiff was accordingly directed to pay it. The plaintiff persisted in his contention that he was not the gumasta of any one, till at last he was ordered in 1892, to be removed for his default to pay a portion of his allowance to Karisiddappa. The plaintiff then, for the first time, seems to have felt the practical threat of the deprivation of his office and made a representation to Government. This appeal was numbered as 9 of 1893-94 and the decision proceeded upon the technical ground that "the plaintiff might establish his right by a regular suit and he cannot now be allowed to question the order of 1885 by a miscellaneous application."

The plaintiff then brought this suit. The Assistant Commissioner decided the case in his favor; but the Deputy Commissioner, though agreeing with him in all his findings of fact, held that the limitation law was against the plaintiff and accordingly dismissed the suit. He threw out a suggestion that it was open to Government to revise Colonel Macintire's order, dated 3rd September 1885, under Section 217 of the Revenue Code, and recorded his opinion that the order was clearly illegal. The plaintiff has filed this appeal to Government.

3. The proceedings which originally led to the appointment of the plaintiff were held in order to give effect to the direction contained in Section XXIX of the Potigi Rules. This section directs that "when more villages than form a sufficient charge are already in the hands of one officiator, he will be required to give up the surplus villages for which one or more new officiators will be appointed by Government. The new officiator or officiators will be appointed from the family in which the hak has been hitherto vested, if a competent person can be found."

4. The villages in the hands of the 1st and 2nd defendants had been formed into seven charges and required seven officiators. All the members of the 1st defendant's family were appointed and there were no more forthcoming. Similarly Venkatadasappa's family contributed three and yet there remained the 7th charge. The plaintiff who was, as concurrently found by both the Deputy Commissioner and his Assistant, a member of that family, was also available and he was appointed. This appointment received the consent of the 2nd defendant's guardian, though such consent was not a requisite condition under the rule quoted above. The appointment was in no wise irregular. It was quite in accordance with the requirements of the law. It had been approved by the Deputy Commissioner and was thus final, unconditional and absolute. It is obvious that with the appointment the right to it became absolutely vested in the plaintiff in a legal manner and he could not be deprived of it except in due course of law.

5. Two intermediate orders which bore no fruit may here be referred to as exemplifying the incorrect notions which seem to have prevailed on the subject. Although Karisiddappa had no heir or other representative at the time when this appointment was made, yet it was thought that he could re-open the matter, if an additional heir was born to him within three years (Order No. 212 of 26th December 1882). The source of this mistake was probably a misconception of the provision contained in Section XXX which refers to the passing over of an incompetent heir. Similarly, another opinion, also faulty, was expressed that the plaintiff who belonged to the 2nd defendant's family having officiated for five years, the turn might then pass on to the 1st defendant's family for a similar period of five years. (Deputy Commissioner's Order No. 430, dated 25th June 1885). Both these opinions were expressed in the orders of district authorities, but were not given practical effect to. Another of such orders was the order of 1885 passed by Col. Macintire that the plaintiff should be treated as a gumasta. There can be no doubt that this view of the case was erroneous. The appointment of the plaintiff was absolute and there was no justification for importing into it the new term of gumasta. This had been expressly negatived by an order of the Deputy Commissioner Mr. Venkatavaradaiengar in 1882, and, as pointed out by the Assistant Commissioner in this suit, the reversal of that order by Col. Macintire who succeeded Mr. Venkatavaradaiengar as Deputy Commissioner, was unwarranted and illegal being opposed to the terms of the circular order then in force (page 233, Revenue Manual). Moreover this was an order in a series which had not been given effect to and the plaintiff was not disturbed in his possession. He could not reasonably be found fault with for doing no more than protest or demur when these ineffective or inoperative orders were being passed. When, however, he was threatened with the deprivation of the possession of his hak, he was directed to bring a suit and he did so without loss of time. The relief he prays for is the affirmation of his title based upon his appointment at the shanbhog's settlement, on the ground of his being a member of the shanbhog's family. It has been already shown that he is clearly and lawfully entitled to it and the question is whether the order of Col. Macintire passed in 1885 should be

allowed to become a bar to his obtaining pure justice. The order may be passed over as an expression of one of those opinions which were based upon misconception of fact or of law. *Prima facie* the order was illegal being opposed to an express order passed by a predecessor in office, and was moreover such as could not be executed. The source of the plaintiff's title to officiate—and it is not denied that he is a member of the shanbhog's family—is his appointment and the disturbance of it, is the ground of his present action. A suit for the declaration of his right and for the affirmation thereof, is clearly within time, the period allowed being twelve years; and for the purposes of such a suit, it does not seem to be necessary to seek for a cancelment of the order of 1885. "When the order does not fall within the authority of an official who makes it, it is legally a nullity and therefore need not be set aside," (Shivojee *vs.* Collector, I. L. R. 11 Bombay 429). * It has been already shown that Colonel Macintire acted without proper authority in modifying an order of his predecessor (para 26 of the circular order already quoted). The test is whether the order could be set up as a bar to the maintenance of this suit. It is deemed that it cannot. In this view, the suit does not appear to be barred. The direction of Government in Appeal No. 9 of 1893-94 was that "if the plaintiff had a right, he must establish it by a regular suit." The suit is to establish the right, and not to cancel the order of 1885 which the Government declined "to allow him to question by a miscellaneous application." In this view of the case, the suit does not appear to be barred and the relief claimed must be decreed.

*Mitra's Limitation, page 537.

6. The suggestion of the Deputy Commissioner that Government should exercise its power under Section 217 and cancel the irregular orders which have been passed against the plaintiff if they are to have the effect of depriving him of his just right, is very reasonable. There seems, however, to be no occasion for the exercise of this power, but if there is any doubt whatever in the application of the law of limitation, Government do not hesitate to cancel the orders which militate against the absolute appointment of the plaintiff.

7. The result is that the appellant will be confirmed in his possession of the shanbhogi right in question of which he is the absolute haksdar and officiator.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Shimoga District, with records.
The Deputy Commissioners of other Districts.

Exd.—H.A.S.

1897-98

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 18th January 1898

No. 6527-34 / Pet. F. 92-92

Confirming Ramanna's right to the shanbhogi of Madenahalli firka, Channagiri taluk.

M.G.C.P.B.—14.3-98—125

2777-98 65 27-34-18-1-98

P-H 92-92

Refer

23/9/98 Pet 92 of 92 received from the Collector - arranged & sent up

AK
25-9-98.

Mr Ranganna to submit for orders

mk
3/98

I do not think a copy of the Govt order (Serial No 12) Can be granted. It entitles the 23 Comrs proceedings that of which the petr ~~expected to know~~ He has all the records granted an end

Mr Venkatadas 3/98.

Let me see the Centum order on the subject

Govt Pleader 3/10/98

Govt to give copy Proc No 4082 & Pet 864

12/10/98 My 3/3/98

A Shirastedar of the above Proceedings

AK
3/3/98

Memorandum to Secretary

Received My 5/3/98

5/3/98

(13)

1898

No. 2138

Name of Petitioner Venkatadasappa and Kanisiddappa

Village

Taluk } Chanagiri

District Shimoga

Date of Arzi 9 . 2 . 98

Date of Receipt 21 . 2 . 98

Date of Disposal

No. of Enclosure 8, 2as postage stamps 16 12 postage stamps

Addressed to the Dewan

ABSTRACT

This office Endt No 2777 12-1-98 granted petrs in Revn Petn of 1897-98 regarding the Shanbhogue of Madenahalli (Appellant-Ranganna Respondents - (14) petrs).

State that two eight annas Court fee stamps, 8, 2as postage stamps and 16 1anna postage stamps have been enclosed to meet the transcription fees.

Beg for a copy of the decision in the above appeal suit.

Pray that &c

they would pay any extra
amount that might be
due at Chennajiri, where
the copy might be ordered to
be delivered to them on payment
of all dues -
ROP -

MYSORE DEWAN'S OFFICE
PETITION DEPARTMENT
REG'D. NO 21351
DATE 21-2-98

My post prep. 2 right annas stamp
& two inland labels & 16 one anna
labels pre-moved mg
21-2-98

ಸಂಪಾದಕರಿಗೆ ಪತ್ರ

ಮಾನ್ಯರೇ,

ಕಳೆದ ಕೆಲವು ವರ್ಷಗಳಿಂದ ಕಾಲೇಜು ಶಿಕ್ಷಣ ಪಡೆಯುವ ಹೆಣ್ಣುಮಕ್ಕಳ ಸಂಖ್ಯೆ ಹೆಚ್ಚಾಗಿದೆ. ಆದರೆ ಅವರಲ್ಲಿ ಬಹುಪಾಲು ಮಂದಿ ಪದವಿ ಪಡೆದ ನಂತರ ಉದ್ಯೋಗ ಮಾಡುವುದಿಲ್ಲ. ಮದುವೆಯಾಗಿ ಗಂಡನ ಮನೆಗೆ ಹೋಗಿ ಸಂಸಾರ ನಡೆಸುವುದೇ ಅವರ ಮುಖ್ಯ ಕೆಲಸವಾಗುತ್ತದೆ. ಹೀಗಾಗಿ ಅವರು ಪಡೆದ ಶಿಕ್ಷಣ ಸಮಾಜಕ್ಕೆ ಉಪಯೋಗವಾಗುವುದಿಲ್ಲ. ಇದು ಸರಿಯಲ್ಲ. ಹೆಣ್ಣುಮಕ್ಕಳು ಪಡೆದ ಶಿಕ್ಷಣ ಸಮಾಜಕ್ಕೆ ಉಪಯೋಗವಾಗಬೇಕು. ಅವರು ಉದ್ಯೋಗ ಮಾಡಿ ಸಮಾಜಕ್ಕೆ ತಮ್ಮ ಕೊಡುಗೆ ನೀಡಬೇಕು. ಇದಕ್ಕಾಗಿ ಸರ್ಕಾರ ಕೆಲವು ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳಬೇಕು. ಹೆಣ್ಣುಮಕ್ಕಳಿಗೆ ಉದ್ಯೋಗ ಮಾಡಲು ಪ್ರೋತ್ಸಾಹ ನೀಡಬೇಕು. ಅವರಿಗೆ ಉದ್ಯೋಗ ಸಿಗುವಂತೆ ಮಾಡಬೇಕು. ಅವರು ಉದ್ಯೋಗ ಮಾಡಲು ಅನುಕೂಲವಾಗುವಂತೆ ಸೌಲಭ್ಯಗಳನ್ನು ಒದಗಿಸಬೇಕು. ಹೆಣ್ಣುಮಕ್ಕಳು ಉದ್ಯೋಗ ಮಾಡಿದರೆ ಅವರ ಕುಟುಂಬಕ್ಕೆ ಆರ್ಥಿಕ ಭದ್ರತೆ ಸಿಗುತ್ತದೆ. ಅವರ ಆತ್ಮವಿಶ್ವಾಸ ಹೆಚ್ಚುತ್ತದೆ. ಸಮಾಜದಲ್ಲಿ ಅವರಿಗೆ ಗೌರವ ಸಿಗುತ್ತದೆ. ಆದ್ದರಿಂದ ಹೆಣ್ಣುಮಕ್ಕಳು ಉದ್ಯೋಗ ಮಾಡಲು ಪ್ರೋತ್ಸಾಹಿಸಬೇಕು.

ಇಂತಿ ನಿಮ್ಮ ವಿಶ್ವಾಸಿ,
ಕಾವೇರಿ ಪಾಟೀಲ್
ಬೆಳಗಾವಿ

Gen: Rs.

Please put up 292-92

AK
21/4/98

Petition filed 292-92

putup.

20-4-98

Ag
21/4/98

Orr 292-92

Noted

Mr Gulpmahomed to file
in this - majid to file R.

MG
22/4/98

Why this question?
A draft of the Returnable
& office memo which
I see annexed
& our/recs

22/4/98

Rd and drafted

22/4/98

GL. No. 7533

Ser. 507

12 15 2 1897

From The Deputy Commissioner
Shimoga District

To The Secretary to the
Government of Mysore
Genl and Rev: depts.

Dated 15th April 1895

Despatched

Received

General No. 1446

No. 971

Enclosure No.

With reference to Govt
Proceedings No 6527 dated
Gen. 292-92
18th January 1898 Request
the Return of Kannada
Judgment in Connection
with Revenue Suit No 17
1895-96 on the file of the 1st
Assistant Commissioner
Shimoga District.

Petition
1894

19/4.

1897-98 5

From

The Deputy Commissioner
Shimoga District

To

The Secretary to the
Government of Mysore
General and Revenue Depts

Dated 5th April 1898.

No 1146.
944

Referring to Government Proceedings
No 0.3.27
Feb 1892 dated 18th January 1893 re-
turning the records connected with Revenue
Suit No 1 of 1895-96 on the file of the 1st
Assistant Commissioner, Shimoga District,
Plaintiff Ramanna & 1 Bangalore
and 3 others, has the honour to state that
the Kannada Judgment (Enclosure No 4)
is sent for returning in the records and to
request that the Cases may be caused
to be returned to this Office to be filed
with the Proceedings.

[signature]

for Offg Deputy Commissioner
Shimoga District

1898

86

1898 (16)

From

The Secretary to Govt
Genl and Rev. Depts

To

The Deputy Commissioner
Shimoga Dt

LR 152-96-9

Dated 25th

Despatched 25th April 98

Received

General No. 1173 P (1324)

C. No. 92-98

Enclosure No.

The Dy Commr's letter
No 1146/944 dated 15th April
1898;

Has the honor to
return herewith the
Kanarese judgment re-
ferred to in the above rela-
-ting to Rev. S. No 1 of 1896
on the file of 1st Addl Commr's
Court Shimoga Dt, and
beg to return with the
memorandums of the Dt officer
received with the Dy Commr's letter
No 1121/966 dated 26.4.98.

By order

for Secretary

28/6/98

Reject Lr 152-96-Ec

25/4/98

6527-34

2777 dtd 15-12-97.

Reg. I

25/4/98

Miscellaneous matter relating to

AK

27/4/98

Note

(1) An application for review of Govt. order 6527-34 dtd 18-1-98. Bears a stamp of Rs 2. Stamp insufficient

(2) Application in time

Orde

28/4/98

Reject the petn, Stamp being insufficient

14/5/98

Encl: as per list

14/5/98

4/5/98

2.

5-5-98

1898

No. 25-94

Name of Petitioner Kattaiamaralia
& 2 others

Village Kasiea

Taluk Chemaginie

District Chemaga

Date of Arzi 5-4-98

Date of Receipt 19-4-98

Date of Disposal

No. of Enclosure Two

ABSTRACT

Application praying for a review of Govt. order communicated to the petitioners in Endt. No. 2777 dtd 15-12-98 on the following grounds:-

1) That the absence of the petitioners at the time of the Inquiry was unavoidable the petitioners having been summoned to appear before Ramanna Ashariboy - the petitioners application dated 5-12-98 addressed to the Collector was not forwarded by the officer who informed them that he can not entertain the petition for 3 years more -

(2) That on the application of Narasiddappa for Division of Sadabhanga as Shanbhog, the Dep: Comr has decided that Ramanna was only a Gumasta but not Kaddar,

(3) That the claims of Virmad Rao, the father of Ramanna, for the Shanbhogi of 2 Nirkas were held as untenable by the Dep: Comr: (vide Order No: 125 of 18-8-1871) on Virmad Rao's petition of 1869.

(4) That the Govt: have also upheld the above decision in an appeal preferred by Ramanna in 1893-94 in their order dated 10-9-1896

(5) And that they have other grounds to shew that Ramanna is not claimant for the Shanbhogi office

Pray that their review application may be admitted

21/4/98 Enclosures:-

(1) Govt: Sect: (copy) No: 2777 of 12.1.98

(2) -do- do- 2158 of 9.3.98

COURT FEE EIGHT ANNAS

COURT FEE EIGHT ANNAS

COURT FEE EIGHT ANNAS

COURT FEE EIGHT ANNAS

Mir Nasir-ul-Mulk
Chief Minister
14. 4. 1924

1924

OFFICE DEWAN'S OFFICE
RECD. ON
DATE 18-4-24

LR 152-96-11